

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0605P

Income Tax

Calendar Years 1994, 1995, & 1996

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ISSUE

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

The negligence penalty was assessed on an income audit for the calendar years of 1994, 1995, & 1996.

The taxpayer manufactures and distributes a wide variety of industrial and consumer products through its various divisions. In Indiana, the taxpayer has several plants and warehouses.

I. **Tax Administration** – Penalty

DISCUSSION

The taxpayer argues the negligence penalty is improper as the taxpayer has submitted over 90% of the tax due and has complied with the reporting in a good faith manner.

The Department points out that the taxpayer has been audited several times in the past and should have been aware of the reporting requirements.

45 IAC 15-11-2(b) states, "Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary

reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the Department finds the negligence penalty proper and denies the penalty protest.

FINDING

The taxpayer’s penalty protest is denied.